

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA AMENDING CHAPTER 22.22 OF THE
MUNICIPAL CODE TO ESTABLISH A PROCESS FOR
HISTORIC PROPERTY PRESERVATION CONTRACTS
BETWEEN THE OWNERS OF CITY HISTORIC
PROPERTIES AND THE CITY PURSUANT TO THE
AUTHORITY OF THE STATE MILLS ACT

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

Section One: Chapter 22.22 of Title 22 of the Santa Barbara
Municipal Code is hereby amended to add a new section, Section
22.22.160 (entitled "Incentives for Preserving Historic
Resources"), which reads as follows:

Section 22.22.160 Incentives for Preserving Historic Resources

A. Legislative Intent; Administrative Regulations. In enacting
this section, the City Council seeks to adopt a City program of
incentives to encourage the maintenance and preservation of
historic resources within the city of Santa Barbara. In order to
carry out this program more effectively and equitably and to
further the purposes of this section, the Council may also, by
resolution, supplement these provisions by adopting
administrative regulations and standardized forms for a broad
City program of economic and other incentives intended to
support the preservation, maintenance, and appropriate
rehabilitation of the City's significant historic resources.

**B. Preservation Incentives under the State Mills Act- Government
Code Sections 50280-50290.** Preservation incentives may be made
available by the City to owners of properties that are
"Qualified Historic Properties" (as that term is used by
Government Code section 50280.1) such as individually designated
City landmarks or structures of merit or those properties that
are deemed to contribute to designated City Historic Districts
(or Districts listed in the National Register) as determined
appropriate by the City Council.

C. Qualified Historic Property Mills Act Contracts.

1. Purpose.

a. The purpose of this Section is to implement state Government Code Sections 50280 through 50290 in order to allow the City approval of Qualified Historic Property Contracts by establishing a uniform City process for the owners of qualified historic resource properties within the City to enter into Mills Act contracts with the City.

b. The City Council finds and determines that entering into Qualified Historic Property Contracts, as hereinafter provided, is an incentive for owners of designated historic resources to rehabilitate, maintain, and preserve those properties.

c. The City Council further finds that, in some instances, the preservation of these properties will assist in restoring, maintaining, and preserving the City's existing stock of affordable housing and support the goals and objectives in the Land Use Element of the City General Plan concerning the preserving of historically and architecturally significant residential structures.

2. Limitations on Eligibility For a Mills Act Contract.

a. In approving this program, it is the intent of the City Council that unrealized revenue to the City from property taxes not collected due to executed Qualified Historic Property Contracts shall not exceed a total annual amount, (including total individual amounts for any one historic property) as such amounts are established by a resolution of the City Council adopted concurrently with the enactment of this Chapter, unless exceeding this limit is specifically approved by the Council.

b. In furtherance of this policy, Qualified Historic Property Contracts shall be limited to a maximum number of contracts each year consisting of a certain number of residential properties each year and a certain number of commercial or industrial properties each year, unless the City Council approves additional contracts beyond the established limits as such amounts are established by a resolution of the City Council adopted concurrently with the enactment of this Chapter. In addition, no single-family residence approved for a City contract pursuant to

this section may have an assessment value in excess of an amount established by the City Council nor may the assessed value of any non-single family home property (i.e., a multi-family residential, commercial, or industrial property) exceed an amount established in the City Council's concurrent resolution.

c. For the purpose of this Subparagraph (2), "assessed valuation" does not include any portion of the value of a mixed-use structure which is already exempt from payment of property taxes by a determination of the County Assessor in compliance with Sections 4(b) and 5 of Article XIII of the California Constitution and Sections 214, 254.5, and 259.5 of the Revenue and Taxation Code.

3. Required provisions of Qualified Historic Property Contracts.

Mills Act Provisions Required.

a. The required provisions of a Qualified Historic Property Contract between the City and the property owner shall be those required by State law (Government Code Sections 50281 and 50286) expressly including the following specifications:

Term.

(i) The contract shall be for the minimum ten (10) year term, with automatic renewal yearly by either the City or the property owner on the anniversary of the contract date in the manner provided in Government Code section 50282.

Restoration and Maintenance Plan; Standards

(ii) The fundamental purpose of the contract will be an agreement to assist the property owner in the owner's restoration, maintenance, and preservation of the qualified historic resource; therefore, the plan for restoration and maintenance of the property required by the contract shall conform to the rules and regulations of the State of California Office of Historic Preservation (California Department of Parks and Recreation), the Secretary of the Department of the Interior's Standards, and the State Historical Building Code.

Verification of Compliance with Plan.

(iii) The real property owner will expressly agree in the contract to permit periodic examination of the interior and exterior of the premises by the County Assessor, the City Community Development Director (or his or her designee), the State Department of Parks and Recreation, and the State Board of Equalization, as may be necessary to verify the owner's compliance with the contract agreement, and to provide any information requested to ensure compliance with the contract agreement.

Property Visible from Street.

(iv) The real property owner will expressly agree and the plan shall provide that any fencing or landscaping along the public right-of-way frontages of the real property will such that it allows the home or building to be visible to the public from the public rights-of-way.

Recordation of Contract.

(v) The contract shall be recorded by the Santa Barbara County Recorder's office and shall be binding on all successors-in-interest of the owner with respect to both the benefits and burdens of the contract.

Notice to State.

(vi) The City shall provide written notice of the contract to the State of California Office of Historic Preservation within 180 days of entering into the contract.

Procedure for Non-Renewal.

(vii) The procedure for notice of non-renewal by the owner or the City, shall be as identified in State law [Government Code Section 50282 (a), (b), and (c) and Section 50285.]

Annual Report Required.

(viii) The contract shall require the real property owner to file an annual report, initially, on the program of implementing the plan or restoration or rehabilitation until that has been completed to the satisfaction of the Community Development Director, and thereafter, on the annual maintenance of the property which report may require documentation of the

owner's expenditures in restoring, rehabilitating, and maintaining the Qualified Historic Property.

Cancellation of Contracts.

(ix) The contract shall expressly provide for the City's authority to cancel the contract if the City determines that the owner has breached the contract either by his or her failure to restore or rehabilitate the property in accordance with the approved plan or by the failure to maintain the property as restored or rehabilitated. The manner of cancellation shall as set forth in Government Code sections 50285 and 50286.

Breach of Contract.

b. Additionally, the contract shall state that the City may cancel the contract if it determines that the owner has breached any of the other substantive provisions of the contract or has allowed the property to deteriorate to the point that it no longer meets the significance criteria under which it was originally designated.

Cancellation Fee.

c. The contract may also provide that if the City cancels the contract for any of these reasons the owner shall pay the State of California a cancellation fee of twelve and one-half percent of the full value of the property at the time of cancellation, as determined by the County Assessor without regard to any restriction on the property imposed by the Historic Property Contract.

Force Majeur Cancellations.

d. The contract shall require that in the event preservation, rehabilitation, or restoration of the Qualified Historic Property becomes infeasible due to damage caused by natural disaster (e.g., earthquake, fire, flood, etc.), the City may cancel the contract without requiring the owner to pay the State of California the above-referenced cancellation fee as a penalty. However, in this event, a contract may not be cancelled by the City unless the City determines, after consultation with the State of California Office of Historic Preservation, in compliance with Public Resources Code Section 5028, that preservation, rehabilitation, or restoration is infeasible.

Standard Contract.

e. The City Community Development Department shall prepare and maintain a sample "Historic Property Contract" with all required provisions specified by this Subparagraph (3).

4. Procedures for application for and approval of Historic Property Contracts.

a. An owner of a qualified historic property (as listed in Paragraph (B) above may file an application for entering into an Historic Property Contract with the City.

b. Each application shall be accompanied by a complete legal description of the property and,

c. within sixty (60) days of the submission of the application a plan for the restoration or rehabilitation of the property.

d. In January of each year, the City may notify, either by mailing or published notices, the owners of qualified historic properties of the period of application for and process for City Historic Property Contracts for that calendar year.

e. Application forms, as prescribed by the City, shall be mailed to any property owner who requests the application forms.

e. Upon submission of an application and the plan for restoration or rehabilitation of the property, the application and plan shall be reviewed for completeness by the City's Urban Historian within sixty (60) of the submission. In connection with this review, the Urban Historian shall complete an initial inspection of the Qualified Historic Property, obtain photo documentation of the existing condition of the property and utilize the inspection information to revise the plan for restoration or rehabilitation where necessary.

f. All applications and plans for restoration or rehabilitation deemed complete and acceptable to the City's Urban Historian shall, within sixty (60) days of being deemed complete, be submitted to the City's Historic Landmarks Commission. Such application and plans shall be evaluated by both the Urban Historian and the Commission

for compliance with established City criteria that will include, but not be limited to, the following findings:

(i) the plan will substantially contribute to the preservation of an historic and unique City resource which is threatened by possible abandonment, deterioration, or conflicting regulations, and it will enhance opportunities for maintaining or creating affordable housing, or it will facilitate the preservation and maintenance of a property in cases of economic hardship.

(ii) the plan will support substantial reinvestment in a historic resource and rehabilitation of a historic structure in the expanded State Enterprise Zone and other areas where the City is concentrating resources on facade improvements, home rehabilitation, or similar revitalization efforts.

(iii) the Community Development Director has certified that the property does not now consist of any unpermitted or unsafe construction or building elements, is not the subject of a pending City code enforcement matter, and is current on the payment of all property taxes.

(iv) whether the plan calls for any new construction, in particular new construction or additions which might impact the eligibility for the structure to qualify as a Qualified Historic Resource, as that term is used in the Mills Act.

g. Upon completion of the Historic Landmarks Commission review of the application and plan, the Commission shall make a recommendation to the City Community Development Director for the City approval or disapproval of the contract.

h. If an application is recommended for approval by the Historic Landmarks Commission and the Urban Historian, the City shall prepare a contract according to its standard contract form, which shall be deemed to have all provisions necessary for a Historic Property Contract with the City.

i. Additional provisions in the Contract desired by the owner shall be subject to approval by the Community Development Director or, when determined appropriate by the

Community Development Director, by the City Council and as to form by the City Attorney in all cases.

j. The City Finance Director shall determine that the proposed contract does not cause the total annual revenue loss to the City to exceed the amounts established by resolution for this program by the City Council, both collectively and for individual properties.

k. Upon approval of the contract by the Finance Director, the contract signed by the property owners shall be submitted to the City Clerk/City Administrator and City Attorney for execution of the contract on behalf of the City and for recordation by the City Clerk's office.

l. Historic Property Contracts that exceed the limits identified in this Section shall be only be approved and executed after and upon the express approval of the City Council.

D. Annual Report by Finance Director. The City Finance Director shall report annually to the City Council Finance Committee on the approval of executed Mills Act contract agreements along with a report accounting for the property tax impacts on the local taxing entities resulting from such contracts.

Section Two. Section 22.22.020 of Chapter 22.22 of the Santa Barbara Municipal Code is hereby amended to add a new definition subsection, subsection M, in order to define the term "Historic District" as follows:

M. **"Historic District."** A delineated geographic area of the City (or a non-contiguous grouping of real properties within the City) where most of the properties within the district are thematically architecturally related and possess historical significance, special character, or aesthetic value including, but not limited to, a distinct section of the City possessing a significant concentration of cultural resources which are united historically or aesthetically either by plan or by physical development, as such a district is designated by the City Council, acting by resolution or by ordinance, as being worthy of protection under this Chapter.